

United States District Court

WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

v.

ANDREW BAJEK

CASE NUMBER: 06-M- 4021

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief.


a. On or about January 1, 2006 through March 30, 2006, in the Western District of New York, the defendant employed and used a minor to engage in sexually explicit conduct for purposes of producing a visual depiction of such conduct, in violation of Title 18, United States Code, Section 2251(a).

b. On or about January 1, 2006 through March 30, 2006, in the Western District of New York, the defendant knowingly transported child pornography in interstate commerce, in violation of Title 18, United States Code, Section 2252A(a)(1).

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: (✓) Yes () No


JOSEPH M. MCARDLE, Special Agent, FBI
Signature of Complainant

Sworn to before me and subscribed in my presence,

April 4, 2006
Date

at

Rochester, New York
City and State

HON. MARIAN W. PAYSON, USMJ
Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Joseph M. McArdle, having been first duly sworn, do hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI). I have been a Special Agent for over 13 months. I am currently assigned to the Buffalo Division, Rochester, New York resident agency. My duties involve investigating federal crimes including violations of Title 18, United States Code, Sections 2251 and 2252A.

2. This affidavit is made in support of an application for a complaint and warrant for arrest charging ANDREW BAJEK, date of birth March 23, 1974, residing at 5630 South Nagle Avenue, Chicago, Illinois, with violations of Title 18, United States Code, Sections 2251 and 2252A. I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe support an application for a complaint and warrant for arrest, charging ANDREW BAJEK with the aforementioned violations.

Violations of Sections 2251(a) & 2252A

3. On March 15, 2006, the Federal Bureau of Investigation (FBI) was contacted by the parent of a 15-year-old girl from the Webster, New York area. The parent explained that his daughter recently told him that she had emailed nude images of herself to an unknown man. When his daughter told the unknown man that she no longer intended to email him nude or pornographic images, he threatened to send the images (that he had already received) to his friends.

4. On March 15, 2006, the 15-year-old girl was interviewed by the FBI. Both of the girl's parents were present during the course of the interview. The girl explained that she frequently visited a website known as "Bolt2". Bolt2 is a popular website frequently visited by teenagers. Subscribers of Bolt2 can create "profiles" of themselves. Profiles can be considered creative expressions of the person who creates the profile. For example, profiles oftentimes consist of personal pictures, favorite music, lists of favorite movies and books, poems, and personal nicknames. A Bolt2 profile oftentimes lists the creator's age or date of birth.

5. Anyone can set up or subscribe to Bolt2 free of charge. Once a person establishes a Bolt2 account, he or she may review other subscriber's profiles, or search the site for profiles that he or she finds interesting. A subscriber can contact someone whom he or she finds "interesting" and communicate or chat with that person on-line. During "chat" sessions, subscribers oftentimes share thoughts, ideas, and/or opinions. Teenagers frequently utilize websites, such as Bolt2, to both communicate with local friends and to "meet" and "chat" with people from other cities, states, or even countries.

6. In the Spring of 2005, the girl advised that she set up a Bolt2 account and created her own profile. Her profile consisted of her birth date, screen name, her sex, and the country where she resides. Additionally, her profile included a picture of herself, taken with the family's digital camera.

7. Approximately two to three months ago, the girl advised that she received a message from a Bolt2 subscriber known as drew74@thunder.bolt.com. The girl explained that drew74@thunder.bolt.com asked her to send him a nude picture of herself. Although she refused to send him a nude image, the girl and drew74@thunder.bolt.com chatted for a few minutes about

sports, movies and music. The girl explained that after this chat session she trusted drew74@thunder.bolt.com.

8. Approximately one week later, drew74@thunder.bolt.com again contacted the girl on Bolt2. Once again, drew74@thunder.bolt.com asked the girl to send him a nude picture of herself. This time the girl agreed. Using her yahoo email account, she advised that she sent a nude picture of herself to the man's yahoo account at wheels_742003@yahoo.com. The girl explained that the picture was taken using her family's digital camera. She "cropped" the picture so that only her breasts, and not her face, could be seen. When drew74@thunder.bolt.com received the picture, he replied that the picture was great, but it didn't show her face. He requested an additional picture that showed her face.

9. Over the course of the past two to three months, the girl advised that drew74@thunder.bolt.com repeatedly asked the girl to email him nude images and videos of her stripping, masturbating, engaging in sexual acts, and performing acts of oral sex, utilizing the Internet.

10. During the interview with the FBI, the girl explained that she emailed drew74@thunder.bolt.com some of the nude and pornographic images and videos that he told her to send him. However, recently she told him that she didn't want to send him any more pornography. drew74@thunder.bolt.com responded by threatening to send the pornographic images and videos to other people, including his friends. On March 13, 2006, drew74@thunder.bolt.com sent the under-aged female the following message:

"I know ur lieing to me si im gonna give u 1 day to be honest with me and then I am gonna exploit ur vids."

That same day, drew74@thunder.bolt.com warned:

"If I don't get the vids I will exploit u I m serious."

11. On March 15, 2006, an FBI special agent signed onto Bolt2 using the girl's screen name and password. Shortly thereafter, several "notes" were received from drew74@thunder.bolt.com to include the following:

"if your avoiding me there would be consequences so I suggest u talk ot me"

"I already sent 1 vid to a few guys so u better e amil me back or there will be more"

12. On March 30, 2006, ANDREW BAJEK voluntarily offered statements to agents of the FBI and Officers of the Cook County Sheriff's Police, Chicago, Illinois (CCSP).

13. BAJEK stated that he has been going on-line since 2004 and he goes to YAHOO! Groups and looks for child pornography. BAJEK explained that he is interested in females between the ages of thirteen to eighteen years old. BAJEK recently was looking at profiles of girls on YAHOO! and he saw a profile of a girl who said she was fifteen years old. BAJEK started a conversation with her and told her he was eighteen years old. BAJEK explained that he did not want to tell her that he was thirty-two years old. BAJEK explained that they started out with just "regular talk." Then BAJEK started to ask the female for naked pictures of her. BAJEK stated that he knew that sexual pictures of girls under eighteen years old is child pornography and is illegal.

14. BAJEK explained that the female sent BAJEK pictures and videos of herself (utilizing the internet). These pictures included images of the female naked, images of the female masturbating, and images of the female inserting a banana and a cucumber into her vagina. BAJEK asked the female to take pictures and videos of her urinating, however the female would

not do it. BAJEK stated that he saved all of the pictures of the female in his Yahoo mail account under his screen name Wheels_742003@yahoo.com. This is the same email account the 15 year-old girl identified as the account to which she sent the pictures of herself.

15. After a couple of weeks, the female told BAJEK that she did not wish to send him any more pictures. BAJEK explained that he then threatened the female. BAJEK told her that if she did not send him more pictures, he would release the images that he already had (on the internet). BAJEK explained that he really was not going to send out any of her pictures but he wanted to scare her into sending him more pictures and videos.

16. BAJEK stated that he has two YAHOO! Email accounts, and he has child pornography pictures and videos, including the pictures and videos of the female, saved in both accounts. BAJEK estimated that he probably has hundreds of child pornography videos and pictures.

17. BAJEK explained that he has talked to many girls on-line who have told him that they were thirteen to fourteen years old.

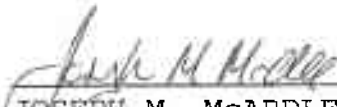
18. BAJEK stated that on March 30, 2006, he emailed the female two videos that she had previously sent him. The videos were sent from the Chicago area to the Western District of New York. BAJEK described the videos as child pornography.

19. On March 30, 2006, the FBI special agents who had assumed the 15 year-old girl's online identity, did in fact receive two videos. The videos were approximately fifteen seconds in length and were reviewed by your affiant. The first video clearly shows the 15 year-old girl from Webster, New York standing nude in front of a shower in the bathroom. As the video progresses, the girl moves her hands across her body, down to her breasts, and then down to her vagina. In the second video, the girl is dressed in a dark colored dress. As the video progresses, the female removes the top of her dress and exposes her breasts.

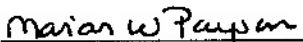
20. Based on the above, there is probable cause to believe that ANDREW BAJEK committed the following violations:

a. He employed and used a minor to engage in sexually explicit conduct for purposes of producing a visual depiction of such conduct, in violation of 18 U.S.C. Section 2251(a).

b. He transported and distributed child pornography, in violation of 18 U.S.C. Section 2252A(a)(1).


JOSEPH M. McARDLE
Special Agent, FBI

Sworn to before me this
4th day of April 2006.


HON. MARIAN W. PAYSON
U.S. Magistrate Judge